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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,446	06/19/2006	Chaitil Jang	JANG3012/REF	9056
23364 7590 07/01/2008 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314				
EXAMINER				
SHUMATE, PAUL W				
ART UNIT		PAPER NUMBER		
3693				
MAIL DATE		DELIVERY MODE		
07/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,446

Applicant(s)

JANG, CHAILL

Examiner

PAUL SHUMATE

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISAC)
Paper No(s)/Mail Date 19 June 2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 6/19/2006. Claims 1-3 are currently pending, have been examined, and stand rejected.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1, 2, and 3 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1 and 2, Applicant appears to use the terms buyer and bidder interchangeably, but also claims conducting a lowest bid price auction. The examiner believes, that in a lowest price auction, buyers are traditionally the ones who start or post an auction, promising to buy the desired product or service at the auction ending price, and bidders are generally the actual sellers of the product or suppliers of the service being requested in the auction. If bidders were in fact buyers of the product or service being auctioned, and the lowest bid did in fact win the auction, then a buyer could win every auction by bidding \$0 and the sellers would be forced to give away their products or services for free. Therefore it is unclear and indefinite as to exactly what subject matter Applicant intends to particularly point out and distinctly claim as his invention.

As per claim 3, the examiner is unable to determine the intended meaning of the following limitation:

- when only one bidder offering the lowest bid price is not present at the step (c), carrying out a retrieving operation to determine whether at least two bidders offering the lowest bid price are present, and deciding one of the at least two bidders first offering the lowest bid price to be the successful bidder.

The examiner is unsure which, if any, of the following interpretations may have been Applicant's intended meaning of the limitation of claim 3:

- if the winning bidder, offering the lowest price, fails to follow through with the auction transaction, then a retrieving operation determines the next best bid and its corresponding bidder to be the winning bidder, if the next best bid is offered by more than one bidder, then the winning bidder is determined based on which bidder submitted his/her bid earliest
- if the winning bidder fails to follow through with the auction transaction, then a retrieving operation determines if there were two bidders offering the winning bid price, meaning the original winning bidder along with another, originally non-winning bidder, if so, then the other bidder is determined to be the new winning bidder
- if the winning bidder fails to follow through with the auction transaction, then a retrieving operation determines if there was at least one or more non-winning bidders who offered the same bid price as the original winning bidder, if so, then one of the at least one or more non-winning bidders who offered the same bid price as the original winning bidder is determined to be the new winning bidder based on

For this examination, the limitation of claim 3 will be interpreted to mean the following:

- if the winning bidder, offering the lowest price, fails to follow through with the auction transaction, then a retrieving operation determines the next best bid and its corresponding bidder to be the winning bidder, if the next best bid is offered by more than one bidder, then the winning bidder is determined based on which bidder submitted his/her bid earliest

4. Appropriate action is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 rejected under 35 U.S.C. 102(b) as being anticipated by Hamada, U.S. Pub. No.: 2001/0056394.

As per claims 1 and 2, Hamada teaches a system and method for conducting auctions using the Internet (see at least paragraph 0005 lines 1-2) which includes 'reverse auctions' where bids to supply a product are entered into the system over a preset period of time in accordance to established minimum conditions of purchase. As bids are received, the system immediately posts the offered bids on the auction website so the current best bid information is always public knowledge. When the preset time period for the auction ends, the bidder offering the lowest bid becomes the winning bidder (see at least paragraph 0006). Hamada also teaches a product registration processing unit (see at least paragraph 0010 lines 3-6), and a member information and transaction information database (see at least Fig.17 and paragraph 0034 lines 4-6). In addition to establishing minimum conditions of purchase (see at least paragraph 0006 lines 8-11), Hamada also teaches setting a maximum bid price (see at least paragraph 0094 lines 4-6 and paragraph 0095 lines 2-3) which bids must be below, and a minimum bid price (see at least paragraph 0052 lines 4-8 and paragraph 0056 lines 2-4), which bids must be above in order for the bid to be considered eligible to win the auction.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Hamada in view of Official Notice.

As per claim 3, Hamada teaches the method of claim 2 as shown above but does not teach:

- if the winning bidder, offering the lowest price, fails to follow through with the auction transaction, then a retrieving operation determines the next best bid and its corresponding bidder to be the winning bidder, if the next best bid is offered by more than one bidder, then the winning bidder is determined based on which bidder submitted his/her bid earliest

The examiner takes Official Notice that it is old and well known in the art that when a winning bidder backs out of an auction transaction, it is common practice to extend to the second best bidder an offer to be the winning bidder at the bid price of the second best bid. The examiner also takes Official Notice that it is also old and well known in the art that when a winner must be determined from two or more bidders who bid the same price, it is common practice to rank the equally priced bids based on the order or relative time at which they were placed, where earlier bids are ranked higher than. It would have been obvious to incorporate such old and well known procedures into the teachings of Hamada because of the obvious benefits of increasing the number and percentage of executed transactions and also because this reduces the overall negative impact dead-beat bidders have on a marketplace.

Art Unit: 3693

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL SHUMATE whose telephone number is (571)270-1830. The examiner can normally be reached on M-F 8:30 AM - 6:00 PM, EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Name: Paul W. Shumate
Title: Patent Examiner
Date: 6/23/08
Signature: /Paul Shumate/
Examiner, Art Unit 3693